

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Brummer offered the following:

Amendment (with title amendment)

Between lines 30 and 31, insert:

Section 3. Section 175.1015, Florida Statutes, is created to read:

175.1015 Determination of local premium tax situs.--

(1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums imposed under s. 175.101 shall be held harmless from any liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise

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28 due diligence in applying the electronic database are subject to
29 a 0.5-percent penalty on the portion of the premium pertaining
30 to any insured risk that is improperly assigned, whether
31 assigned to an improper local taxing jurisdiction, not assigned
32 to a local taxing jurisdiction when it should be assigned to a
33 local taxing jurisdiction, or assigned to a local taxing
34 jurisdiction when it should not be assigned to a local taxing
35 jurisdiction.

36 (b) Any insurance company that is obligated to report and
37 remit the excise tax on commercial property insurance premiums
38 imposed under s. 175.101 and is unable, after due diligence, to
39 assign an insured property to a specific local taxing
40 jurisdiction for purposes of complying with paragraph(a) shall
41 remit the excise tax on commercial property insurance premiums
42 using a methodology of apportionment in a manner consistent with
43 the remittance for the 2002 calendar year.

44 (2)(a) The Department of Revenue shall, subject to
45 legislative appropriation, create as soon as practical and
46 feasible, and thereafter shall maintain, an electronic database
47 that conforms to any format approved by the American National
48 Standards Institute's Accredited Standards Committee X12 and
49 that designates for each street address and address range in the
50 state, including any multiple postal street addresses applicable
51 to one street location, the local taxing jurisdiction in which
52 the street address and address range is located, and the
53 appropriate code for each such participating local taxing
54 jurisdiction, identified by one nationwide standard numeric
55 code. The nationwide standard numeric code must contain the same
56 number of numeric digits, and each digit or combination of

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57 digits must refer to the same level of taxing jurisdiction
58 throughout the United States and must be in a format similar to
59 FIPS 55-3 or other appropriate standard approved by the
60 Federation of Tax Administrators and the Multistate Tax
61 Commission. Each address or address range must be provided in
62 standard postal format, including the street number, street
63 number range, street name, and zip code. Each year after the
64 creation of the initial database, the Department of Revenue
65 shall annually create and maintain a database for the current
66 tax year. Each annual database must be calendar-year specific.

67 (b)1. Each participating local taxing jurisdiction shall
68 furnish to the Department of Revenue all information needed to
69 create the electronic database as soon as practical and
70 feasible. The information furnished to the Department of Revenue
71 must specify an effective date.

72 2. Each participating local taxing jurisdiction shall
73 furnish to the Department of Revenue all information needed to
74 create and update the current year's database, including changes
75 in annexations, incorporations, and reorganizations and any
76 other changes in jurisdictional boundaries, as well as changes
77 in eligibility to participate in the excise tax imposed under
78 this chapter. The information must specify an effective date and
79 must be furnished to the Department of Revenue by July 1 of the
80 current year.

81 3. The Department of Revenue shall create and update the
82 current year's database in accordance with the information
83 furnished by participating local taxing jurisdictions under
84 subparagraph 1. or subparagraph 2., as appropriate. To the
85 extent practicable, the Department of Revenue shall post each

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86 new annual database on a web site by September 1 of each year.
87 Each participating local taxing jurisdiction shall have access
88 to this web site and, within 30 days thereafter, shall provide
89 any corrections to the Department of Revenue. The Department of
90 Revenue shall finalize the current year's database and post it
91 on a web site by November 1 of the tax year. If a dispute in
92 jurisdictional boundaries cannot be resolved so that changes in
93 boundaries may be included, as appropriate, in the database by
94 November 1, the changes may not be retroactively included in the
95 current year's database and the boundaries will remain the same
96 as in the previous year's database. The finalized database must
97 be used in assigning policies and premiums to the proper local
98 taxing jurisdiction for the insurance premium tax return due on
99 the following March 1. The Department of Revenue shall furnish
100 the annual database on magnetic or electronic media to any
101 insurance company or vendor that requests the database for the
102 sole purpose of assigning insurance premiums to the proper local
103 taxing jurisdiction for the excise tax imposed under this
104 chapter. Information contained in the electronic database is
105 conclusive for purposes of this chapter. The electronic database
106 is not an order, a rule, or a policy of general applicability.

107 4. Each annual database must identify the additions,
108 deletions, and other changes to the preceding version of the
109 database.

110 (3)(a) As used in this section, the term "due diligence"
111 means the care and attention that is expected from and is
112 ordinarily exercised by a reasonable and prudent person under
113 the circumstances.

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114 (b) Notwithstanding any law to the contrary, an insurance
115 company is exercising due diligence if the insurance company
116 complies with the provisions of paragraph (1)(b) or if the
117 insurance company assigns an insured's premium to local taxing
118 jurisdictions in accordance with the Department of Revenue's
119 annual database and:

120 1. Expends reasonable resources to accurately and reliably
121 implement such method;

122 2. Maintains adequate internal controls to correctly
123 include in its database of policyholders the location of the
124 property insured, in the proper address format, so that matching
125 with the department's database is accurate; and

126 3. Corrects errors in the assignment of addresses to local
127 taxing jurisdictions within 120 days after the insurance company
128 discovers the errors.

129 (4) There is annually appropriated from the moneys
130 collected under this chapter and deposited in the Police and
131 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
132 the expenses of the Department of Revenue in administering this
133 section, but not to exceed \$50,000 annually, adjusted annually
134 by the lesser of a 5-percent increase or the percentage of
135 growth in the total collections.

136 (5) The Department of Revenue shall adopt rules necessary
137 to administer this section, including rules establishing
138 procedures and forms.

139 (6) Any insurer that is obligated to collect and remit the
140 tax on property insurance imposed under s. 175.101 shall be held
141 harmless from any liability for taxes, interest, or penalties
142 that would otherwise be due solely as a result of an assignment

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143 of an insured property to an incorrect local taxing
144 jurisdiction, based on the collection and remission of the tax
145 accruing before January 1, 2004, if the insurer collects and
146 reports this tax consistent with filings for periods before
147 January 1, 2004. Further, any insurer that is obligated to
148 collect and remit the tax on property insurance imposed under
149 this section is not subject to an examination under s. 624.316
150 or s. 624.3161 which would occur solely as a result of an
151 assignment of an insured property to an incorrect local taxing
152 jurisdiction, based on the collection and remission of such tax
153 accruing before January 1, 2004.

154 Section 4. Section 185.085, Florida Statutes, is created
155 to read:

156 185.085 Determination of local premium tax situs.--

157 (1)(a) Any insurance company that is obligated to report
158 and remit the excise tax on casualty insurance premiums imposed
159 under s. 185.08 shall be held harmless from any liability for
160 taxes, interest, or penalties that would otherwise be due solely
161 as a result of an assignment of an insured property to an
162 incorrect local taxing jurisdiction if the insurance company
163 exercises due diligence in applying an electronic database
164 provided by the Department of Revenue under subsection (2).
165 Insurance companies that do not use the electronic database
166 provided by the Department of Revenue or that do not exercise
167 due diligence in applying the electronic database are subject to
168 a 0.5-percent penalty on the portion of the premium pertaining
169 to any insured risk that is improperly assigned, whether
170 assigned to an improper local taxing jurisdiction, not assigned
171 to a local taxing jurisdiction when it should be assigned to a

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172 local taxing jurisdiction, or assigned to a local taxing
173 jurisdiction when it should not be assigned to a local taxing
174 jurisdiction.

175 (b) Any insurance company that is obligated to report and
176 remit the excise tax on commercial casualty insurance premiums
177 imposed under s. 185.08 and is unable, after due diligence, to
178 assign an insured property to a specific local taxing
179 jurisdiction for purposes of complying with paragraph(a) shall
180 remit the excise tax on commercial casualty insurance premiums
181 using a methodology of apportionment in a manner consistent with
182 the remittance for the 2002 calendar year.

183 (2)(a) The Department of Revenue shall, subject to
184 legislative appropriation, create as soon as practical and
185 feasible, and thereafter shall maintain, an electronic database
186 that conforms to any format approved by the American National
187 Standards Institute's Accredited Standards Committee X12 and
188 that designates for each street address and address range in the
189 state, including any multiple postal street addresses applicable
190 to one street location, the local taxing jurisdiction in which
191 the street address and address range is located, and the
192 appropriate code for each such participating local taxing
193 jurisdiction, identified by one nationwide standard numeric
194 code. The nationwide standard numeric code must contain the same
195 number of numeric digits, and each digit or combination of
196 digits must refer to the same level of taxing jurisdiction
197 throughout the United States and must be in a format similar to
198 FIPS 55-3 or other appropriate standard approved by the
199 Federation of Tax Administrators and the Multistate Tax
200 Commission. Each address or address range must be provided in

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201 standard postal format, including the street number, street
202 number range, street name, and zip code. Each year after the
203 creation of the initial database, the Department of Revenue
204 shall annually create and maintain a database for the current
205 tax year. Each annual database must be calendar-year specific.

206 (b)1. Each participating local taxing jurisdiction shall
207 furnish to the Department of Revenue all information needed to
208 create the electronic database as soon as practical and
209 feasible. The information furnished to the Department of Revenue
210 must specify an effective date.

211 2. Each participating local taxing jurisdiction shall
212 furnish to the Department of Revenue all information needed to
213 create and update the current year's database, including changes
214 in annexations, incorporations, and reorganizations and any
215 other changes in jurisdictional boundaries, as well as changes
216 in eligibility to participate in the excise tax imposed under
217 this chapter. The information must specify an effective date and
218 must be furnished to the Department of Revenue by July 1 of the
219 current year.

220 3. The Department of Revenue shall create and update the
221 current year's database in accordance with the information
222 furnished by participating local taxing jurisdictions under
223 subparagraph 1. or subparagraph 2., as appropriate. To the
224 extent practicable, the Department of Revenue shall post each
225 new annual database on a web site by September 1 of each year.
226 Each participating local taxing jurisdiction shall have access
227 to this web site and, within 30 days thereafter, shall provide
228 any corrections to the Department of Revenue. The Department of
229 Revenue shall finalize the current year's database and post it

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230 on a web site by November 1 of the tax year. If a dispute in
231 jurisdictional boundaries cannot be resolved so that changes in
232 boundaries may be included, as appropriate, in the database by
233 November 1, the changes may not be retroactively included in the
234 current year's database and the boundaries will remain the same
235 as in the previous year's database. The finalized database must
236 be used in assigning policies and premiums to the proper local
237 taxing jurisdiction for the insurance premium tax return due on
238 the following March 1. The Department of Revenue shall furnish
239 the annual database on magnetic or electronic media to any
240 insurance company or vendor that requests the database for the
241 sole purpose of assigning insurance premiums to the proper local
242 taxing jurisdiction for the excise tax imposed under this
243 chapter. Information contained in the electronic database is
244 conclusive for purposes of this chapter. The electronic database
245 is not an order, a rule, or a policy of general applicability.

246 4. Each annual database must identify the additions,
247 deletions, and other changes to the preceding version of the
248 database.

249 (3)(a) As used in this section, the term "due diligence"
250 means the care and attention that is expected from and is
251 ordinarily exercised by a reasonable and prudent person under
252 the circumstances.

253 (b) Notwithstanding any law to the contrary, an insurance
254 company is exercising due diligence if the insurance company
255 complies with the provisions of paragraph (1)(b) or if the
256 insurance company assigns an insured's premium to local taxing
257 jurisdictions in accordance with the Department of Revenue's
258 annual database and:

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259 1. Expends reasonable resources to accurately and reliably
260 implement such method;

261 2. Maintains adequate internal controls to correctly
262 include in its database of policyholders the location of the
263 property insured, in the proper address format, so that matching
264 with the department's database is accurate; and

265 3. Corrects errors in the assignment of addresses to local
266 taxing jurisdictions within 120 days after the insurance company
267 discovers the errors.

268 (4) There is annually appropriated from the moneys
269 collected under this chapter and deposited in the Police and
270 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
271 the expenses of the Department of Revenue in administering this
272 section, but not to exceed \$50,000 annually, adjusted annually
273 by the lesser of a 5-percent increase or the percentage of
274 growth in the total collections.

275 (5) The Department of Revenue shall adopt rules necessary
276 to administer this section, including rules establishing
277 procedures and forms.

278 (6)(a) Notwithstanding any other law, no methodology,
279 formula, or database that is adopted in any year after January
280 1, 2004, may result in a distribution to a participating
281 municipality that has a retirement plan created pursuant to this
282 chapter of an amount of excise tax which is less than the amount
283 distributed to such participating municipality for calendar year
284 2003. However, if the total proceeds to be distributed for the
285 current year from the excise tax imposed under s. 185.08 are
286 less than the total amount distributed for calendar year 2003,
287 each participating municipality shall receive a current year

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288 distribution that is proportionate to its share of the total
289 2003 calendar year distribution. If the total proceeds to be
290 distributed for the current year from the excise tax imposed
291 under s. 185.08 are greater than or equal to the total amount
292 distributed for calendar year 2003, each participating
293 municipality shall initially be distributed a minimum amount
294 equal to the amount received for calendar year 2003. The
295 remaining amount to be distributed for the current year, which
296 equals the total to be distributed for the current year, less
297 minimum distribution amount, shall be distributed to those
298 municipalities with a current-year reported amount that is
299 greater than the amount distributed to such municipality for
300 calendar year 2003. Each municipality eligible for distribution
301 of this remaining amount shall receive its proportionate share
302 of the remaining amount based upon the amount reported for that
303 municipality, above the calendar year 2003 distribution for the
304 current year, to the total amount over the calendar year 2003
305 distribution for all municipalities with a current year reported
306 amount that is greater than the calendar year 2003 distribution.

307 (b) If a new municipality elects to participate under this
308 chapter during any year after January 1, 2004, such municipality
309 shall receive the total amount reported for the current year for
310 such municipality. All other participating municipalities shall
311 receive a current year distribution, calculated as provided in
312 this section, which is proportionate to their share of the total
313 2003 calendar year distribution after subtracting the amount
314 paid to the new participating plans.

315 (c) This subsection expires January 1, 2007.

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316 (7) Any insurer that is obligated to collect and remit the
317 tax on casualty insurance imposed under s. 185.08 shall be held
318 harmless from any liability for taxes, interest, or penalties
319 that would otherwise be due solely as a result of an assignment
320 of an insured risk to an incorrect local taxing jurisdiction,
321 based on the collection and remission of the tax accruing before
322 January 1, 2004, if the insurer collects and reports this tax
323 consistent with filings for periods before January 1, 2004.
324 Further, any insurer that is obligated to collect and remit the
325 tax on casualty insurance imposed under this section is not
326 subject to an examination under s. 624.316 or s. 624.3161 which
327 would occur solely as a result of an assignment of an insured
328 risk to an incorrect local taxing jurisdiction, based on the
329 collection and remission of such tax accruing before the
330 effective date of this section.

331 Section 5. Subsection (1) of section 175.351, Florida
332 Statutes, is amended to read:

333 175.351 Municipalities and special fire control districts
334 having their own pension plans for firefighters.--For any
335 municipality, special fire control district, local law
336 municipality, local law special fire control district, or local
337 law plan under this chapter, in order for municipalities and
338 special fire control districts with their own pension plans for
339 firefighters, or for firefighters and police officers, where
340 included, to participate in the distribution of the tax fund
341 established pursuant to s. 175.101, local law plans must meet
342 the minimum benefits and minimum standards set forth in this
343 chapter.

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344 (1) PREMIUM TAX INCOME.--If a municipality has a pension
345 plan for firefighters, or a pension plan for firefighters and
346 police officers, where included, which in the opinion of the
347 division meets the minimum benefits and minimum standards set
348 forth in this chapter, the board of trustees of the pension
349 plan, as approved by a majority of firefighters of the
350 municipality, may:

351 (a) Place the income from the premium tax in s. 175.101 in
352 such pension plan for the sole and exclusive use of its
353 firefighters, or for firefighters and police officers, where
354 included, where it shall become an integral part of that pension
355 plan and shall be used to pay extra benefits to the firefighters
356 included in that pension plan; or

357 (b) Place the income from the premium tax in s. 175.101 in
358 a separate supplemental plan to pay extra benefits to
359 firefighters, or to firefighters and police officers where
360 included, participating in such separate supplemental plan.

361

362 The premium tax provided by this chapter shall in all cases be
363 used in its entirety to provide extra benefits to firefighters,
364 or to firefighters and police officers, where included.

365 However, local law plans in effect on October 1, 1998, shall be
366 required to comply with the minimum benefit provisions of this
367 chapter only to the extent that additional premium tax revenues
368 become available to incrementally fund the cost of such
369 compliance as provided in s. 175.162(2)(a). When a plan is in
370 compliance with such minimum benefit provisions, as subsequent
371 additional premium tax revenues become available, they shall be
372 used to provide extra benefits. For the purpose of this chapter,

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373 "additional premium tax revenues" means revenues received by a
374 municipality or special fire control district pursuant to s.
375 175.121 which ~~that~~ exceed that amount received for calendar year
376 1997, and the term "extra benefits" means benefits in addition
377 to or greater than those provided to general employees of the
378 municipality and in addition to those in existence for
379 firefighters on March 12, 1999. Local law plans created by
380 special act before May 23, 1939, shall be deemed to comply with
381 this chapter.

382 Section 6. Subsection (1) of section 185.35, Florida
383 Statutes, is amended to read:

384 185.35 Municipalities having their own pension plans for
385 police officers.--For any municipality, chapter plan, local law
386 municipality, or local law plan under this chapter, in order for
387 municipalities with their own pension plans for police officers,
388 or for police officers and firefighters where included, to
389 participate in the distribution of the tax fund established
390 pursuant to s. 185.08, local law plans must meet the minimum
391 benefits and minimum standards set forth in this chapter:

392 (1) PREMIUM TAX INCOME.--If a municipality has a pension
393 plan for police officers, or for police officers and
394 firefighters where included, which, in the opinion of the
395 division, meets the minimum benefits and minimum standards set
396 forth in this chapter, the board of trustees of the pension
397 plan, as approved by a majority of police officers of the
398 municipality, may:

399 (a) Place the income from the premium tax in s. 185.08 in
400 such pension plan for the sole and exclusive use of its police
401 officers, or its police officers and firefighters where

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402 included, where it shall become an integral part of that pension
403 plan and shall be used to pay extra benefits to the police
404 officers included in that pension plan; or

405 (b) May place the income from the premium tax in s. 185.08
406 in a separate supplemental plan to pay extra benefits to the
407 police officers, or police officers and firefighters where
408 included, participating in such separate supplemental plan.

409
410 The premium tax provided by this chapter shall in all cases be
411 used in its entirety to provide extra benefits to police
412 officers, or to police officers and firefighters, where
413 included. However, local law plans in effect on October 1,
414 1998, shall be required to comply with the minimum benefit
415 provisions of this chapter only to the extent that additional
416 premium tax revenues become available to incrementally fund the
417 cost of such compliance as provided in s. 185.16(2). When a plan
418 is in compliance with such minimum benefit provisions, as
419 subsequent additional tax revenues become available, they shall
420 be used to provide extra benefits. For the purpose of this
421 chapter, "additional premium tax revenues" means revenues
422 received by a municipality pursuant to s. 185.10 which ~~that~~
423 exceed the amount received for calendar year 1997, and the term
424 "extra benefits" means benefits in addition to or greater than
425 those provided to general employees of the municipality and in
426 addition to those in existence for police officers on March 12,
427 1999. Local law plans created by special act before May 23,
428 1939, shall be deemed to comply with this chapter.

429 Section 7. Subsection (7) is added to section 175.061,
430 Florida Statutes, to read:

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431 175.061 Board of trustees; members; terms of office;
432 meetings; legal entity; costs; attorney's fees.--For any
433 municipality, special fire control district, chapter plan, local
434 law municipality, local law special fire control district, or
435 local law plan under this chapter:

436 (7) The board of trustees may, upon written request by the
437 retiree of the plan, or by a dependent, when authorized by the
438 retiree or the retiree's beneficiary, authorize the plan
439 administrator to withhold from the monthly retirement payment
440 those funds that are necessary to pay for the benefits being
441 received through the governmental entity from which the employee
442 retired, to pay the certified bargaining agent of the
443 governmental entity, and to make any payments required by law.

444 Section 8. Present subsection (6) of section 185.05,
445 Florida Statutes, is redesignated as subsection (7), and a new
446 subsection (6) is added to said section, to read:

447 185.05 Board of trustees; members; terms of office;
448 meetings; legal entity; costs; attorney's fees.--For any
449 municipality, chapter plan, local law municipality, or local law
450 plan under this chapter:

451 (6) The board of trustees may, upon written request by the
452 retiree of the plan, or by a dependent, when authorized by the
453 retiree or the retiree's beneficiary, authorize the plan
454 administrator to withhold from the monthly retirement payment
455 those funds that are necessary to pay for the benefits being
456 received through the governmental entity from which the employee
457 retired, to pay the certified bargaining agent of the
458 governmental entity, and to make any payments required by law.

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459 Section 9. The sum of \$300,000 is appropriated from the
460 General Revenue Fund to the Department of Revenue for the one-
461 time expense of creating the original database called for by
462 sections 1 and 2 of this act, and to support the implementation
463 process for use of the database. It is the intent of the
464 Legislature in providing this appropriation that the database
465 for sections 1 and 2 of this act be available for use in
466 determining the allocation of premiums to the various
467 municipalities and special fire control districts for the 2004
468 insurance premium tax return that is due by March 1, 2005.

470 ===== T I T L E A M E N D M E N T =====

471 Between lines 6 and 7, insert:
472 creating s. 175.1015, F.S.; authorizing the Department of
473 Revenue to create and maintain a database for use by insurers
474 that report and remit an excise tax on property insurance
475 premiums; providing insurers with incentives for using the
476 database; providing penalties for failure to use the database;
477 requiring local governments to provide information to the
478 department; appropriating funds to the department for the
479 administration of the database; authorizing the department to
480 adopt rules; creating s. 185.085, F.S.; authorizing the
481 Department of Revenue to create and maintain a database for use
482 by insurers that report and remit an excise tax on casualty
483 insurers premiums; providing incentives to insurers for using
484 the database and penalties for failure to use the database;
485 requiring local governments to provide information to the
486 department; appropriating funds to the department for the
487 administration of the database; authorizing the department to

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488 adopt rules; providing for distribution of tax revenues through
489 2007; amending s. 175.351, F.S.; defining the term "extra
490 benefits" with respect to pension plans for firefighters;
491 amending s. 185.35, F.S.; providing for the meaning of the term
492 "extra benefits" with respect to pension plans for municipal
493 police officers; amending s. 175.061, F.S.; authorizing the plan
494 administrator to withhold certain funds; amending s. 185.05,
495 F.S.; authorizing the plan administrator to withhold certain
496 funds; providing an appropriation to the Department of Revenue;